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8 UNITED STATES DISTRICT COURT
9 FOR THE EASTERN DISTRICT OF CALIFORNIA
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11 O.Z. MARTIN,

12 Plaintiff,

13 v.

14 DR. PETRAS, et al.,

15 Defendants.
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No. 2:20-cv-1536 WBS CKD P

ORDER

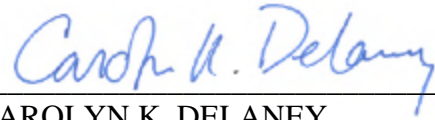
17 Plaintiff is a state prisoner proceeding pro se in an action brought under 42 U.S.C. § 1983.
18 In his amended complaint, plaintiff requests that the court appoint counsel. District courts lack
19 authority to require counsel to represent indigent prisoners in section 1983 cases. Mallard v.
20 United States Dist. Court, 490 U.S. 296, 298 (1989). In exceptional circumstances, the court may
21 request an attorney to voluntarily represent such a plaintiff. See 28 U.S.C. § 1915(e)(1). Terrell
22 v. Brewer, 935 F.2d 1015, 1017 (9th Cir. 1991); Wood v. Housewright, 900 F.2d 1332, 1335-36
23 (9th Cir. 1990). When determining whether “exceptional circumstances” exist, the court must
24 consider plaintiff’s likelihood of success on the merits as well as the ability of the plaintiff to
25 articulate his claims pro se in light of the complexity of the legal issues involved. Palmer v.
26 Valdez, 560 F.3d 965, 970 (9th Cir. 2009) (district court did not abuse discretion in declining to
27 appoint counsel). The burden of demonstrating exceptional circumstances is on the plaintiff. Id.
28 Circumstances common to most prisoners, such as lack of legal education and limited law library

1 access, do not establish exceptional circumstances that warrant a request for voluntary assistance
2 of counsel.

3 Having considered the factors under Palmer, the court finds that plaintiff has failed to
4 meet his burden of demonstrating exceptional circumstances warranting the appointment of
5 counsel at this time.

6 Accordingly, IT IS HEREBY ORDERED that plaintiff's February 24, 2021 motion for
7 the appointment of counsel is denied without prejudice.

8 Dated: April 28, 2021



CAROLYN K. DELANEY
UNITED STATES MAGISTRATE JUDGE

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